

BILL NO. G-93-12- 28 (as amended)

GENERAL ORDINANCE NO. G- 01-94

**AN ORDINANCE of the Common Council of
the City of Fort Wayne, Indiana Amending
Title XV of the Municipal Code of the City of
Fort Wayne.**

WHEREAS, the Common Council has adopted a Subdivision Control Ordinance that permits developers to make payments to the Fort Wayne Parks and Recreation Department in lieu of setting aside land for park/recreation space.

**NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA:**

SECTION 1. That Title XV of the Municipal Code of the City of Fort Wayne is hereby amended as follows:

Insert the following as Chapter 158 of Title XV:

Chapter 158: Subdivision Recreation Space

158.0100 Purpose.

This chapter is enacted to ensure that future community growth does not deplete available recreational lands; that such lands are properly located and preserved; and to further ensure that reasonable cost of park and recreational facilities may be most equitably apportioned on the basis of the additional burdens created by such subdivision developments.

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3 **158.0200 Subdivision Recreation Space Policies**
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5 **A)** In order to satisfy the Subdivision Control Ordinance, the developer may donate
6 and dedicate grounds for public park development, may establish private
7 recreational facilities, or may pay appropriate in lieu of fees.
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10 **1) Private Recreational Facilities.**

11 The Fort Wayne Parks and Recreation Department shall review and make
12 a recommendation on all private recreational facilities established through
13 the subdivision procedure. Facilities may include active or passive uses,
14 and shall be coordinated with existing or proposed recreational areas.
15 Criteria used for review shall be the current policies and practices of the
16 Fort Wayne Parks and Recreation Department.
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19 **2) Park Land Donation and Dedication.**
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21 The developer may donate and dedicate recreational areas and facilities
22 within the subdivision, or at acceptable location not contained within the
23 subdivided land, for a public park. The Fort Wayne Parks and Recreation
24 Department shall reserve the right of acceptance and shall base such
25 acceptance on current policies and practices.
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29 **3) In Lieu of Payment.**
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31 Where dedication of land is not compatible with the general subdivision
32 plan of the developer or the Park Master Plan, the developer shall make

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3 in lieu of payments to the Fort Wayne Parks and Recreation Department.
4 In this event, the developer shall pay to the Board of Park Commissioners
5 a cash payment as hereinafter determined which shall be used solely for
6 the acquisition and/or development of park and recreational developments
7 in the appropriate subarea of the park service jurisdiction.
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10 a) **Method of Payment.**
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12 The payment in lieu of land shall be based on the average land
13 value per acre of the acreage of land in the development that
14 otherwise would have been dedicated. For purposes of this
15 section, average value per acre shall be determined by the
16 following method:
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18 The developer will disclose to the Board of Park Commissioners
19 the pre-development purchase price or appraisal for said land. The
20 purchase price or appraisal will then be used to determine the
21 proportionate value of the dedication of land required, as
22 determined in Section 155.0450 of the Subdivision Control
23 Ordinance not to exceed a maximum of \$200 per lot.
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29 b) **Criteria for Requiring Dedication and Payment In Lieu Of.**
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31 There may be situations when a combination of land dedication
32 and a contribution in lieu of land are both advisable. These

occasions will arise when:

(i) Only a portion of the land to be developed is proposed as the location for a park site. That portion of the land within the subdivision falling within the park location shall be dedicated as a site as aforesaid and a payment in lieu of shall be accepted for any additional land that would have to be dedicated.

(ii) A major part of the local park or recreational site has already been acquired and only a small portion of land is needed from the development to complete the site. The remaining portions shall be required by dedication, and a payment in-lieu-thereof may be accepted.

4) Special Fund.

All payment in lieu of park land dedication collected by the Board of Park Commissioners shall be deposited in a special non-reverting fund to be known and designated as "special fund for the acquisition and development of park and recreational facilities" and such funds shall be used for public park development in the appropriate subarea of the park service jurisdiction. Any and all interest accumulated upon such funds shall be added to the special fund and be used only for acquisition and development of parks and recreational areas in the appropriate subarea as determined from time to time by the Board of Park Commissioners.

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3 **158.0300 Procedures:**
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5 A) If a pre-application conference for Plat submittal is held, the Community and
6 Economic Development staff (C&ED), the developer, and a representative from
7 the Parks and Recreation Board, if applicable, shall review the requirements for
8 park land dedication, the plan for parks as contained in the Master Plan, and
9 criteria and standards as described in the subdivision regulations.
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12 B) **Primary Plat.** At the time of filing a primary plat with the Plan Commission, the
13 owner or developer of the property shall, as part of such filing, indicate which of
14 the three options he wishes to use to address the recreational area
15 requirements. If the subdivider desires to dedicate land for this purpose, the
16 area shall be designated on the primary plat as submitted.
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19 C) **Review and Recommendation by the Parks and Recreation Planning Staff.**
20 When the primary plat is received which proposes the dedication of park land,
21 a copy of said plat shall be forwarded to the Parks and Recreation planning staff.
22 Upon receipt of said plat, the Parks and Recreation staff shall review the same
23 and make recommendations and suggestions thereon with regard to placement,
24 size, design, location of said park or recreational area, topography, and access.
25 Within two weeks after receipt of a copy of said plat, the Parks and Recreation
26 staff shall forward recommendations to the Division of Community and Economic
27 Development.
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31 D) **Pre-requisites for Approval of Final Plat.** Where a dedication is required it
32 shall be accomplished by providing the Board of Park Commissioners with a

properly executed warranty deed, dedicating the required land to the Board without cost to the Board.

E) **In Lieu of Payment Procedures.** If the developer requests to make a cash contribution in lieu of dedication, he must so advise the Board of Park Commissioners which will then determine the amount of such contribution, based on the recreational space requirement ratio established in Section 155.0450 of the Subdivision Control Ordinance.

Where fee in lieu of dedication is accepted, the same shall be paid in the manner hereinafter set forth:

- 1) By payment to the Board, prior to approval of the final plat.
- 2) Alternative form of payment approved by the Board.

F) **Development of Dedicated Area.** It shall be the duty of the Park and Recreation Board to properly develop and maintain the dedicated areas for park and recreation purposes.

158.0400 Applicability to existing subdivisions or developments:

The requirements of this chapter shall not be applicable to existing subdivisions or plats where primary approval has been granted prior to October 1, 1993.

158.0500 Partial dedication.

A) The percentage of park land dedication required under Section 155.0450 of the

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3 Subdivision Control Ordinance shall be determined at the time of the submission
4 of the primary plat.

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6 B) If the secondary plat submitted for approval represents only a portion or a part
7 of the approved primary plat, the secondary plat shall not be accepted until the
8 developer shall deliver to the Board of Park Commissioners a warranty deed to
9 the parcel of land dedicated, pursuant to the primary plat; or in-lieu-of, shall
10 make in lieu of payments based upon the secondary plat.

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13 C) Any remaining secondary plat submitted shall be in substantial compliance with
14 the approved primary plat. Any land conveyed by the developer within the
15 approved primary plat shall be subject to these provisions.

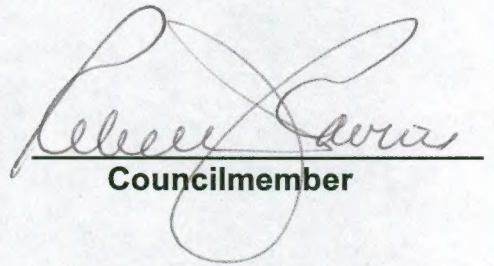
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18 D) No additional land shall be required for park site purposes from the developer
19 upon submission of subsequent partial secondary plats in excess of that which
20 was required in the primary plat; provided, however, that nothing in this section
21 shall be deemed to prevent the Board, C&ED , and the owner, at a later time,
22 from altering the placement, size, design or location of the proposed park, due
23 to a change of circumstances since the approval of the primary plat. No
24 changes shall be made, however, without an agreement on the part of the
25 developer, C&ED and the Board of Park Commissioners.

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28 **158.0600 Title Opinion:**

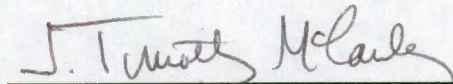
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31 All warranty deeds submitted pursuant to the requirements of this chapter shall be
32 accompanied by a Title opinion certifying that the fee title to the tract is in the owner's

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3 name and is free and clear of encumbrances. In addition, the developer must purchase
4 title insurance for said tract.
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6 **SECTION 2.** That this ordinance shall be in full force and effect from and after
7 its passage and approval by the Mayor.
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12 **Councilmember**

13 **APPROVED AS TO FORM AND LEGALITY:**
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16 **J. Timothy McCaulay, City Attorney**
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18 **FOUR STAR BOND**
19 **SOUTHWORTH CO. U.S.A.**
20 **25% COTTON FIBER**
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Read the first time in full and on motion by Ravine, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and ~~Public Hearing~~ to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 12-28-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Ravine, seconded by _____, and duly adopted, placed on its passage. PASSED ~~Lost~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>			
<u>BRADBURY</u>	<u>✓</u>			
<u>EDMONDS</u>	<u>✓</u>			
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>LUNSEY</u>	<u>✓</u>			
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 1-11-94

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____

(SPECIAL) _____ (ZONING) _____ ORDINANCE RESOLUTION NO. D-01-94

on the 11th day of January, 19 94

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Don J. Schmitter
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of January, 19 94, at the hour of 11:00 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of January, 19 94, at the hour of 9:15 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR



The City of Fort Wayne

Paul Helmke, Mayor

TO: Members of the Common Council

FROM: Robert C. Arnold, Director, Parks & Recreation

DATE: December 28, 1993

SUBJECT: "In Lieu Of" Ordinance

(as amended)
5-93-12-28

The attached ordinance implements a section of the amended Subdivision Control Ordinance, adopted October 1, 1993, by further clarifying the subdivision recreational space requirements. The Subdivision Control Ordinance specifies that the recreational space requirements may be met one of three ways:

- 1) Provide private recreational facilities;
- 2) Donate and dedicate public recreational areas and facilities to the Parks and Recreation Department, and/or
- 3) Make in lieu of payments to the Parks and Recreation Department.

This ordinance contains policies and procedures to be followed by subdivision developers regarding the three options, but is primarily set up to deal with the in lieu of payment option. Previously, subdivision developers were not required to provide recreational space, and the Parks and Recreation Department could only suggest that such space be allotted.

Statewide, both Franklin and Carmel have similar ordinances addressing the need for recreational space by requiring subdivision developers to set aside land and/or fees in lieu of. Locally, the Allen County Subdivision Control Ordinance requires subdivision developers to create private parks, but it does not offer the public park or in lieu of payments as other options. Therefore, the Fort Wayne Subdivision Control Ordinances gives a greater flexibility to developers which should be looked on favorably.

RCA/gb

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE Payment in lieu of subdivision recreational space.

DEPARTMENT REQUESTING ORDINANCE Parks Department

SYNOPSIS OF ORDINANCE Sets policies and procedures to be followed by developers for payment in lieu of designating subdivision recreational space.

EFFECT OF PASSAGE Developers will be required to set aside land for recreational space in subdivisions, or make payment in lieu of such.

EFFECT OF NON-PASSAGE Developers will not be required to set aside land, or make payments in lieu of, recreational space.

MONEY INVOLVED (Direct Cost, Expenditures, Savings) _____

ASSIGNED TO COMMITTEE _____

BILL NO. G-93-12-28

As Amended

REPORT OF THE COMMITTEE ON

REGULATIONS

REBECCA J. RAVINE - CHAIR

MARK E. GIAQUINTA - CO - CHAIR

SCHMIDT, BRADBURY

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) of the Common Council
of the City of Fort Wayne, Indiana Amending Title XV of the
Municipal Code of the City of Fort Wayne

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Rebecca J. Ravine
Janet H. Bradbury
Q.S.D.

DATED: 1-11-94

Sandra E. Kennedy
City Clerk